

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FREE SPEECH COALITION, INC., et al.)	Civil Action No. 2:09-4607
)	
Plaintiffs,)	JUDGE MICHAEL M. BAYLSON
)	
-vs-)	
)	
THE HONORABLE LORETTA LYNCH,)	PLAINTIFFS' MOTION FOR ENTRY
Attorney General,)	OF JUDGMENT DECLARING 18 U.S.C.
)	§§ 2257, 2257A AND THEIR
Defendant.)	IMPLEMENTING REGULATIONS
)	UNCONSTITUTIONAL UNDER THE
)	FIRST AMENDMENT AND ENJOINING
)	THEIR ENFORCEMENT
)	

In compliance with this Court's order of December 14, 2016 (Doc. 240), Plaintiffs submit this Motion.

Plaintiffs move for entry of judgment declaring,

1. The Government has failed to satisfy its burden of demonstrating that 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.*, survive strict scrutiny and they, therefore, are unconstitutional on their face and as applied under the First Amendment for each of the following reasons:
 - a. 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.*, do not directly and materially advance a compelling interest in preventing children from appearing in sexually explicit expression;
 - b. 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R.

- 75.1 *et seq.*, are not narrowly tailored to achieve the Government's interest in preventing children from appearing in sexually explicit expression;
- c. 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.*, are not the least restrictive means in achieving the Government's interest in preventing children from appearing in sexually explicit expression;
 - d. The problem that 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.* were enacted to address—the use of underage performers in the production of adult films—does not exist and is unsupported by any evidence; and
 - e. 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.*, are unconstitutionally overbroad.
2. Plaintiff Free Speech Coalition, Inc. has standing to challenge 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.*, as unconstitutional content-based restrictions of expression under the First Amendment on behalf of its members; and
3. Plaintiff American Society of Media Photographers has standing to challenge 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.*, as unconstitutional content-based restrictions of expression under the First Amendment on behalf of its members.

Plaintiffs additionally request this Court to enter judgment permanently enjoining the enforcement of 18 U.S.C. §§ 2257, 2257A and their implementing regulations, 28 C.F.R. 75.1 *et seq.*, against Plaintiffs and the members of the Free Speech Coalition and the American Society of

Media Photographers.

Respectfully submitted,

January 23, 2017

/s/ J. Michael Murray
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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2017, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ J. Michael Murray

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